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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके ।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 27th December, 1985/Pausa 6, 1907 (Saka)

The following Act of Parliament received the assent of the President on the 27th December, 1985, and is hereby published for general information:—

THE CENTRAL EXCISES AND SALT (AMENDMENT) ACT, 1985

No. 79 OF 1985

[*27th December, 1985.*]

An Act further to amend the Central Excises and Salt Act, 1944.

BE it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Central Excises and Salt (Amendment) Act, 1985.

Insertion of new section 9AA.

1 of 1944.

2. In the Central Excises and Salt Act, 1944 (hereinafter referred to as the principal Act), after section 9A, the following section shall be inserted, namely:—

Offences by companies.

'9AA. (*1*) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(*a*) "company" means any body corporate and includes a firm or other association of individuals; and

(*b*) "director" in relation to a firm means a partner in the firm.'.

Amendment of section 11A.

3. In section 11A of the principal Act,—

(*a*) in sub-section (*1*), in the proviso, for the words "as if", the words 'as if for the words "Central Excise Officer", the words "Collector of Central Excise", and' shall be substituted;

(*b*) in sub-section (*2*), for the words "The Assistant Collector of Central Excise", the words "The Assistant Collector of Central Excise or, as the case may be, the Collector of Central Excise" shall be substituted.

Insertion of new section 12A.

4. In Chapter III of the principal Act, before section 13, the following section shall be inserted, namely:—

Powers of Central Excise Officers.

"12A. (*1*) A Central Excise Officer may exercise the powers and discharge the duties conferred or imposed under this Act on any other Central Excise Officer who is subordinate to him.

(*2*) Notwithstanding anything contained in sub-section (*1*), the Collector of Central Excise (Appeals) shall not exercise the powers and discharge the duties conferred or imposed on a Central Excise Officer other than those specified in section 14 or Chapter VIA.".

Amendment of section 35D.

5. In section 35D of the principal Act, in sub-section (*2*), for the words "three members", the words "two members" shall be substituted.

Amendment of section 37.

6. In section 37 of the principal Act, in sub-section (*2*), after clause (*xxi*), the following clause shall be inserted, namely:—

"(*xxii*) provide for the charging of fees for the examination of excisable goods intended for export out of India and for rendering any other service by a Central Excise Officer under this Act or the rules made thereunder.".

Insertion of new sections 37B and 37C.

7. After section 37A of the principal Act, the following sections shall be inserted, namely:—

Instructions to Central Excise Officers.

"37B. The Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963 may, if it considers it necessary or expedient so to do for the purpose of uniformity in the classification of excisable goods or with respect to levy of duties of excise on such goods, issue such orders, instructions and directions to the Central Excise Officers as it may deem fit, and such officers and all other persons employed in the execution of this Act shall observe and follow such orders, instructions and directions of the said Board:

54 of 1963.

Provided that no such orders, instructions or directions shall be issued—

(*a*) so as to require any Central Excise Officer to make a particular assessment or to dispose of a particular case in a particular manner; or

(*b*) so as to interfere with the discretion of the Collector of Central Excise (Appeals) in the exercise of his appellate functions.

Service of decisions, orders, summons, etc.

37C. (*1*) Any decision or order passed or any summons or notice issued under this Act or the rules made thereunder, shall be served,—

(*a*) by tendering the decision, order, summons or notice, or sending it by registered post with acknowledgment due, to the person for whom it is intended or his authorised agent, if any;

(*b*) if the decision, order, summons or notice cannot be served in the manner provided in clause (*a*), by affixing a copy thereof to some conspicuous part of the factory or warehouse or other place of business or usual place of residence of the person for whom such decision, order, summons or notice, as the case may be, is intended;

(*c*) if the decision, order, summons or notice cannot be served in the manner provided in clauses (*a*) and (*b*), by affixing a copy thereof on the notice board of the officer or authority who or which passed such decision or order or issued such summons or notice.

(*2*) Every decision or order passed or any summons or notice issued under this Act or the rules made thereunder, shall be deemed to have been served on the date on which the decision, order, summons or notice is tendered or delivered by post or a copy thereof is affixed in the manner provided in sub-section (*1*).".

Transfer of certain pending proceedings.

8. Every proceeding under the proviso to sub-section (*1*) of section 11A of the principal Act, which is pending immediately before the commencement of this Act before an Assistant Collector of Central Excise and any matter arising out of, or connected with, such proceeding and which is so pending shall stand transferred on such commencement to the Collector of Central Excise who may proceed with such proceeding or

matter from the stage at which it was on such commencement or from any earlier stage as he may deem fit:

Provided that any party to the proceeding or matter may demand that before proceeding further with the proceeding or matter, he may be re-heard.

R. V. S. PERI SASTRI,
Secy. to the Govt. of India.

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